

North Carolina State
Long Term Care
Ombudsman Program

2012 Annual Report



*Promoting quality of life
and quality of care
for long term care residents.*



**North Carolina Department of Health and Human Services
Division of Aging and Adult Services**

Pat McCrory
Governor

Aldona Z. Vos, M.D.
Ambassador (Ret.)
Secretary DHHS

Dennis W. Streets
Division Director

September 23, 2013

I am pleased to submit the 2012 North Carolina Long Term Care Ombudsman Program Annual Report for federal fiscal year October 1, 2011 through September 30, 2012.

This Annual Report provides an overview of the work accomplished by community advisory committee volunteers, Regional Long Term Care Ombudsmen and the Office of the State Long Term Care Ombudsman this program year. Long Term Care Ombudsmen strive to protect residents' rights, empower families and educate consumers about long term care issues. Examples of cases are included in the annual report that I believe illustrate the difference North Carolina's Ombudsman Program makes in the lives of long term care residents and their families every day.

North Carolina General Statute §§ 143B-181.18(8) requires the Office of the State Long Term Care Ombudsman to prepare an annual report. A variety of information and data are included that reflect the Long Term Care Ombudsman Program's activities and successes this year.

The North Carolina Long Term Care Ombudsman Program had a very busy and productive year in 2012. I invite you to contact me if you have questions or comments about the report.

Sincerely,

Sharon C. Wilder
State Long Term Care Ombudsman

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2012 Services Overview

October 1, 2011 – September 30, 2012

North Carolina State and Regional
Long Term Care Ombudsman Program

3,381	Complaints received by the Long Term Care (LTC) Ombudsman Program
1,768	Complainants assisted by State and Regional LTC Ombudsmen
7,598	Individuals provided with technical assistance regarding long term care issues
7,380	Resident visits made in adult care homes and nursing homes
599	Facility licensure surveys observed
156	Resident Council meetings attended
81	Family Council meetings attended
773	Community education workshops conducted
2,814	Consultations to LTC providers
398	Training sessions provided for staff in LTC facilities
2,169	Hours spent training community advisory committee members and new ombudsmen

Long Term Care Ombudsman Program History

The federal Older Americans Act provided the authorization for the establishment of a national Long Term Care Ombudsman Program beginning in 1978. In subsequent years, amendments to the Older Americans Act expanded the jurisdiction and scope of the Long Term Care Ombudsman Program in each state to include both nursing homes and adult care homes, including the creation of a network of trained volunteers, an informal complaint resolution process and systems advocacy responsibilities related to problems impacting residents in long term care facilities.

In 1989, the North Carolina State Long Term Care Ombudsman Program was codified into state law through General Statute 143B-181.15-.25 which mirrors the federal mandates set forth in the Older Americans Act for the program. State legislation established both the Office of the State Long Term Care Ombudsman and an Office of Regional Long Term Care Ombudsman with the intent that the Long Term Care Ombudsman Program would be administered statewide by the State Long Term Care Ombudsman. The Office

of the State Long Term Care Ombudsman is located in the Department of Health and Human Services, Division of Aging and Adult Services. The 16 Offices of the Regional Long Term Care Ombudsman Programs are housed in Area Agencies on Aging across the state.

Long Term Care Ombudsman Program Purpose

The North Carolina Long Term Care Ombudsman Program's mission is to protect residents' rights and improve the quality of care and life for residents in long term care facilities by providing timely access to advocacy services that assist residents in protecting their health, safety, welfare, and rights.¹ The Long Term Care Ombudsman Program's mandated responsibilities are to:

- Receive and attempt to resolve complaints made by or on behalf of residents in long term care facilities;
- Provide information to the general public on long term care issues;
- Promote community involvement with long term care residents and facilities;

- Work with long term care providers to resolve issues of common concern;
- Assist long term care providers with staff training (particularly on Residents' Rights);
- Train and provide technical assistance to community advisory committee volunteers appointed by county commissioners;
- Collect and report data regarding the number of complaints handled and other program activities;
- Carry out activities for community education and prevention of elder abuse, neglect, and exploitation; and
- Provide information to public agencies, legislators, and others on problems impacting the rights of residents as well as make recommendations for resolution of issues identified.²

¹ 42 USC § 3001 et seq. A copy of relevant sections is attached as Appendix C.

² § 143B-181.15-.25 et seq. A copy is attached as Appendix D.

Long Term Care Ombudsman Program Organization

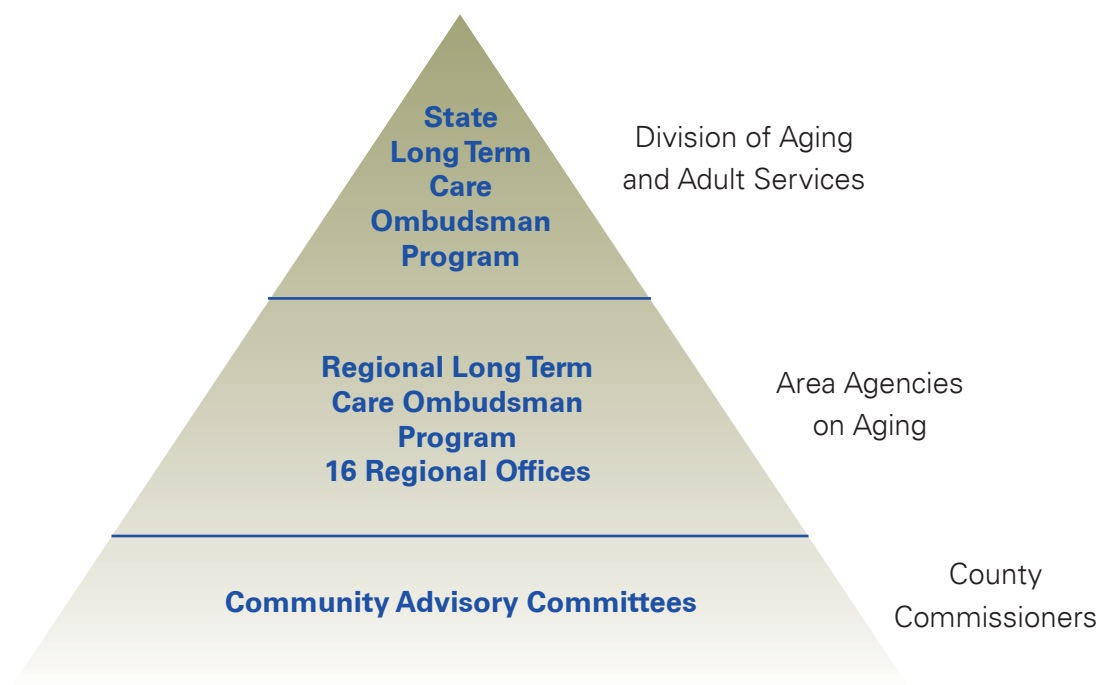
The Office of the State Long Term Care Ombudsman is in the Elder Rights and Special Initiatives Section of the Division of Aging and Adult Services. The State Long Term Care Ombudsman, along with an Ombudsman Program Specialist and an Ombudsman/Elder Rights Specialist, manage day-to-day program administration that includes ensuring all newly hired regional ombudsmen complete the required state certification process and that the Program is in compliance with mandates in the Older Americans Act as amended and N. C. General Statutes.

The Regional Long Term Care Ombudsman Programs are housed in the 16 Area Agencies on Aging across the state. Each of the Regional Ombudsman Programs provides advocacy and direct services to long term care residents in a specified number of counties that comprise the Area Agency on Aging's service area.

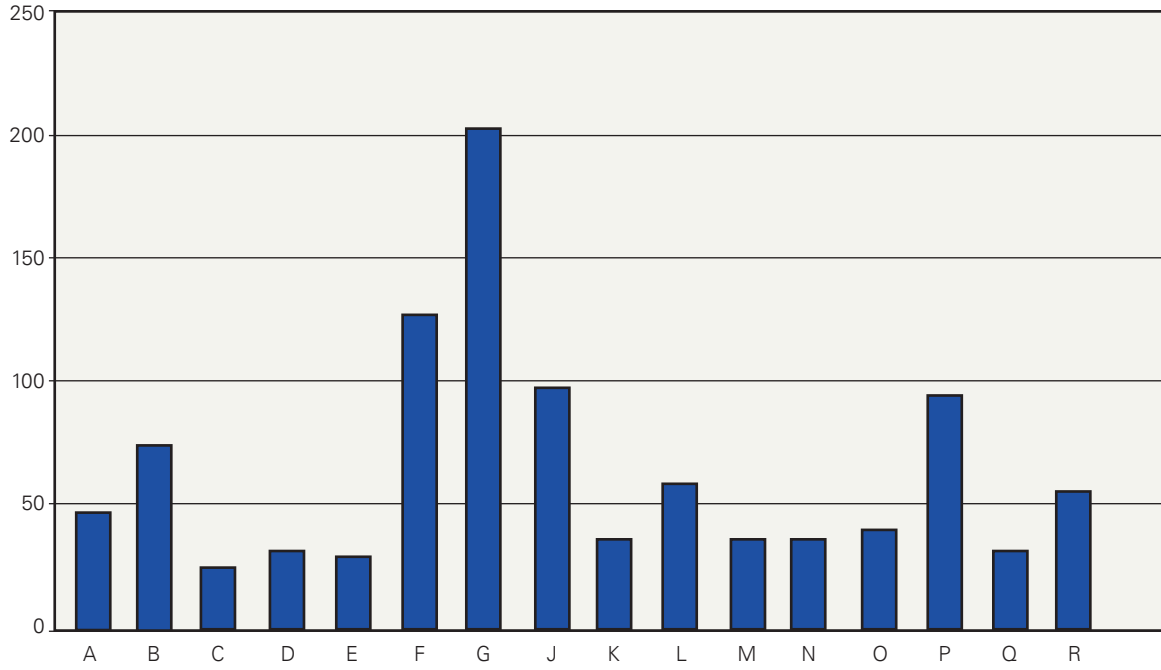
Established through state legislation in the mid-1970's, community advisory committees (CACs) are comprised of local citizens appointed by each county's board of commissioners based on the type and number of facilities located in the county. Once appointed, each community advisory committee member completes 15 hours of initial training prior to assuming the official duties mandated by state statute (G.S. 131D-31 and G. S. 131E-128). The regional long term care ombudsmen ensure that each appointed volunteer completes the required training included in the State Long Term Care Ombudsman Program's Policies and Procedures to equip them to serve as "grassroots advocates" in their communities. There are currently 1,083 trained volunteers actively serving on the adult care home, nursing home or joint community advisory committees in all 100 counties of the state. Regional ombudsmen submit quarterly reports that include

the number of volunteer hours logged by committee members. Volunteers are not required to report the number of miles they travel fulfilling their duties; however, many do voluntarily provide this information as part of their Quarterly Activity Reports.

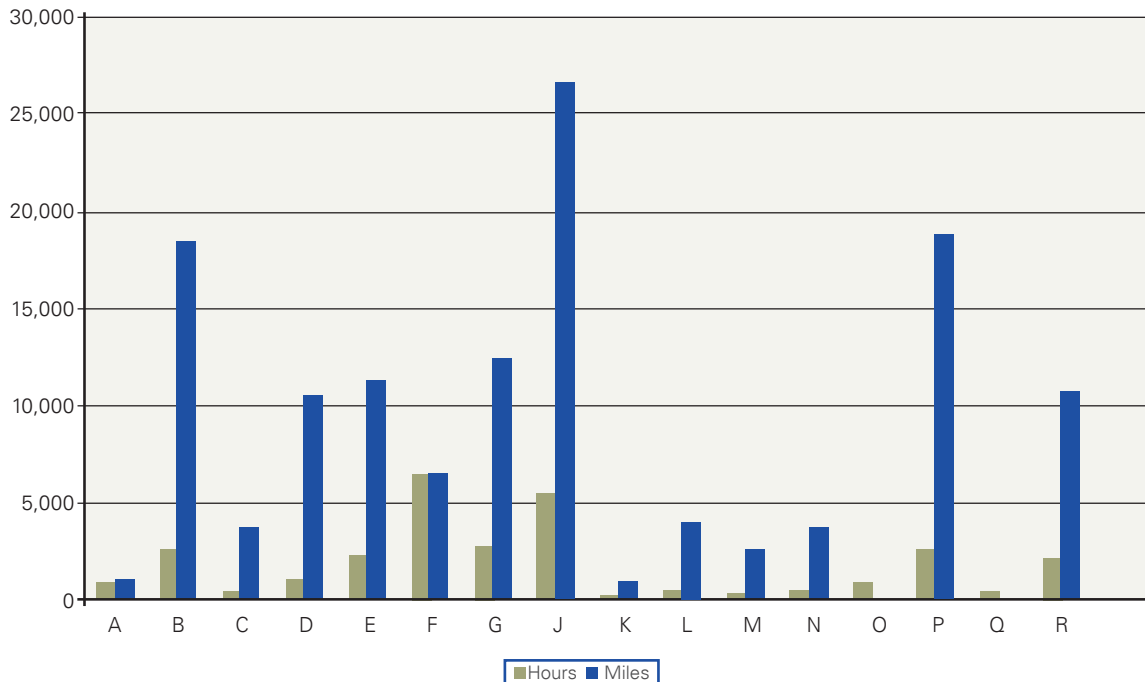
Program Oversight and Structure in North Carolina



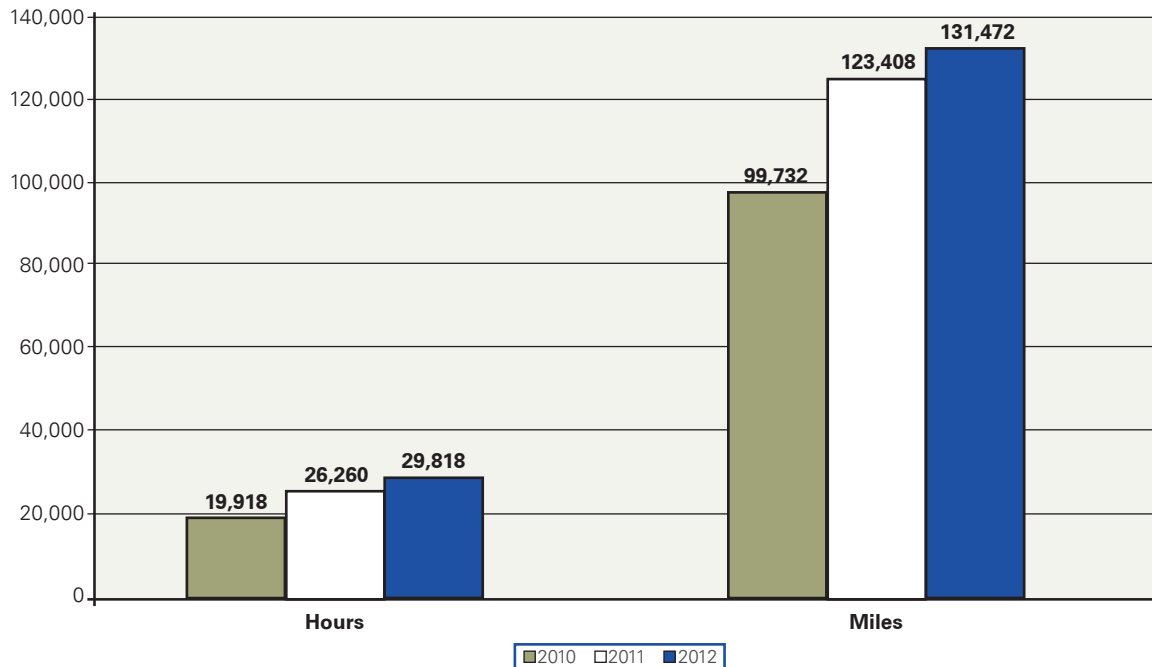
Number of Community Advisory Committee Members per Region FFY 2012



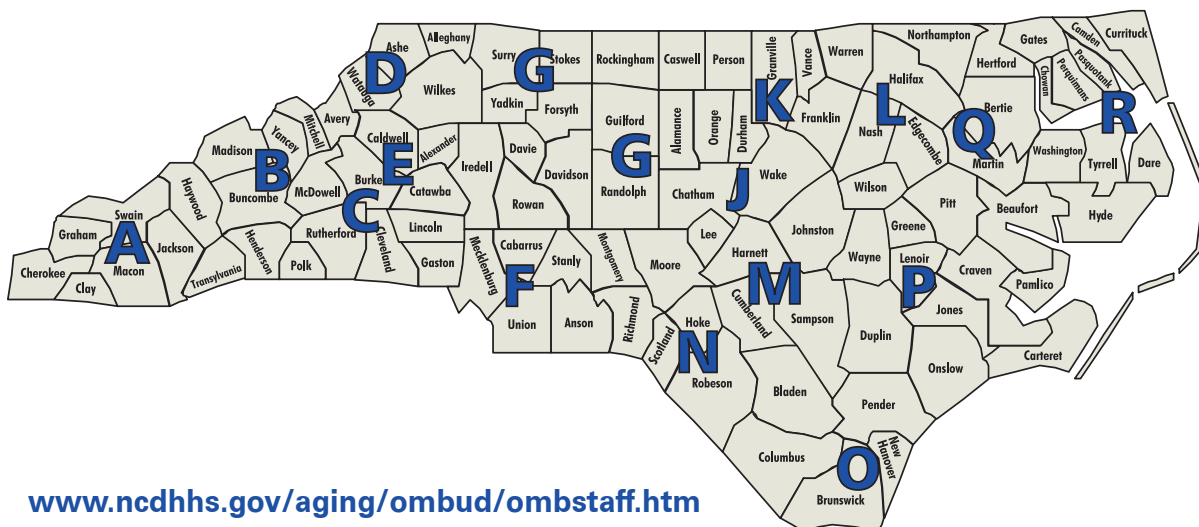
CAC Volunteer Hours and Miles by Region FFY 2012



Community Advisory Committee Volunteer Hours and Miles Contributed through the LTC Ombudsman Program FFY 2010 - FFY 2012



Area Agencies on Aging (AAA) Regional Long Term Care Ombudsmen



www.ncdhhs.gov/aging/ombud/ombstaff.htm

One of the nursing home residents I frequently visited was a quadriplegic, and one of the few activities that still brought him joy was talking on the telephone with his daughter. However, he had to rely on the facility staff members to act as his arms and hands, which created difficulties because he could only speak on the telephone with his daughter when various staff members had the time to hold the telephone for him. To complicate the matter, he had no personal telephone and thus had to wait for his unit's cordless telephone to be brought to him whenever it became available.

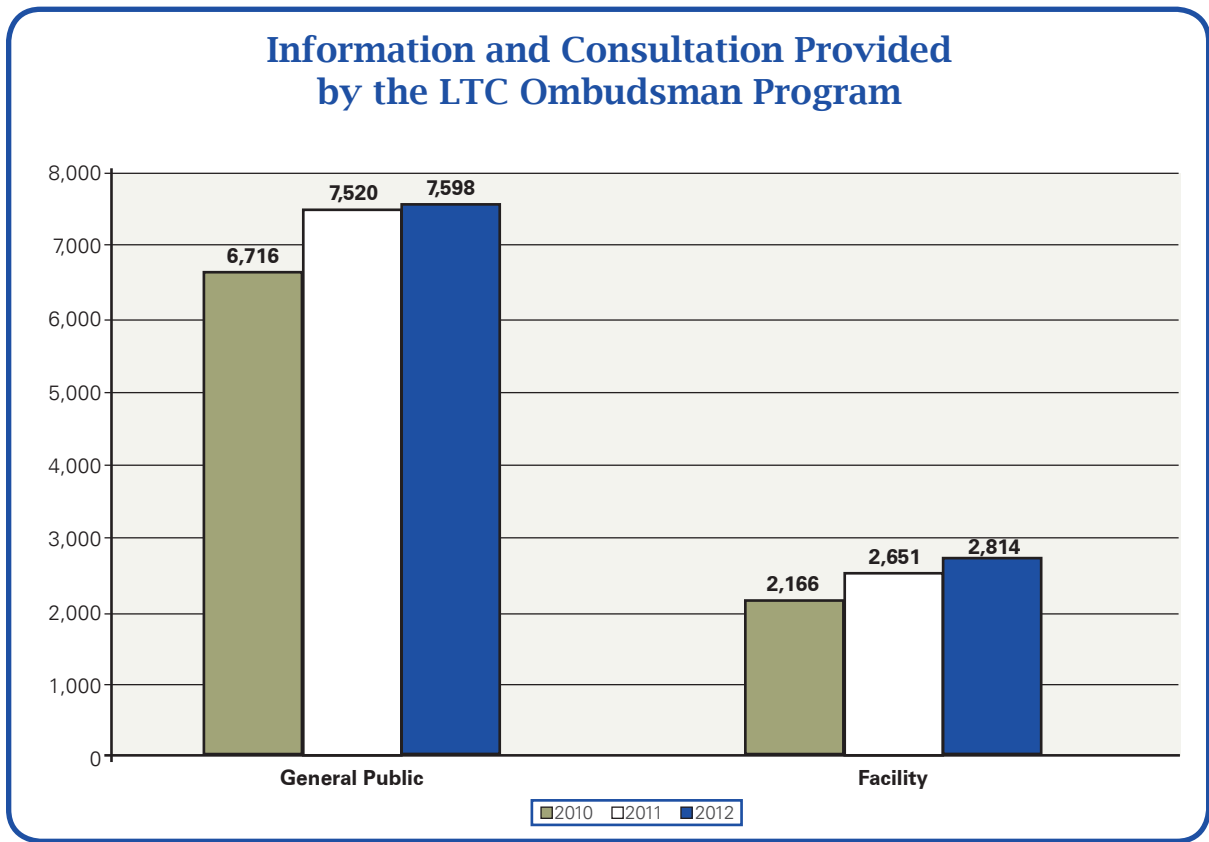
While visiting with him, which I did regularly, I would hold the telephone for him while he spoke with his daughter and could sense the frustration he felt in his loss of independence. He would often tell me how he wished he had his own telephone so he could speak with his daughter all day long and anytime he wanted.

He then told me that he could use the telephone only during normal business hours while the Activity Director was at the facility because the staff members from the Activity Department "were the only people who had time to help me with the telephone."

Right then, I knew something needed to be done. After several meetings with the Administrator, Director of Social Services, Director of Nursing and Business Office Manager, this resident finally received his own cellular telephone. In my attempt to assist the resident in regaining some personal independence into his life, I donated a pair of my earphones to him that he could plug into his telephone. During our many visits, the resident had also asked if I could help him get a laptop with voice-recognition services which eventually he did receive as a result of the multiple meetings on his behalf with facility management.

Now, this resident can talk all day to his daughter without having to rely on anyone else and can even surf the internet when he chooses.

Submitted by a Regional Ombudsman



■ List of long term care facilities.

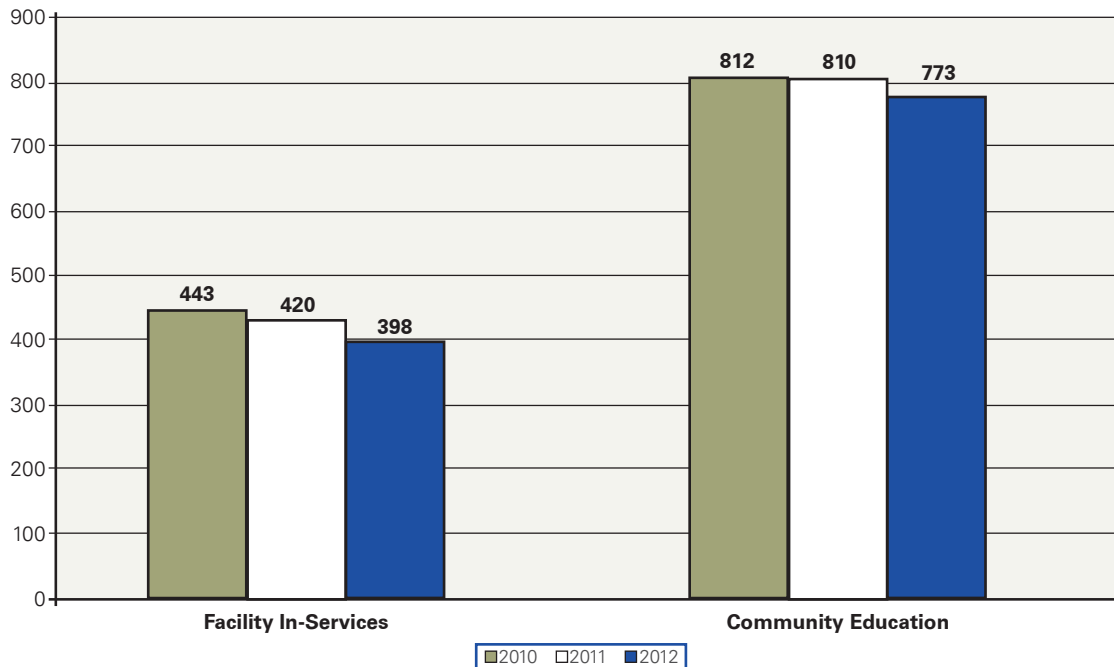
Ombudsmen provided **information and consultation to 7,598 individuals** during 2012. The information most frequently requested:

- Protection of Residents' Rights
- How to select a long term care facility

Ombudsmen provided **2,814 consultations to Nursing Homes and Adult Care Homes**. Most frequent topics of consultations:

- Residents' Rights
- Transfer/Discharge
- Dealing with difficult behaviors.

Education and Training Provided by the LTC Ombudsman Program



Ombudsmen provided **398 training sessions** for long term care staff during 2012. Most frequent topics of trainings:

- Residents' Rights
- Elder Abuse, Neglect, Exploitation, Awareness and Prevention
- Aging Sensitivity Training.

The Ombudsman Program provided **773 community education sessions** for a variety of audiences during 2012. Most frequent educational topics included:

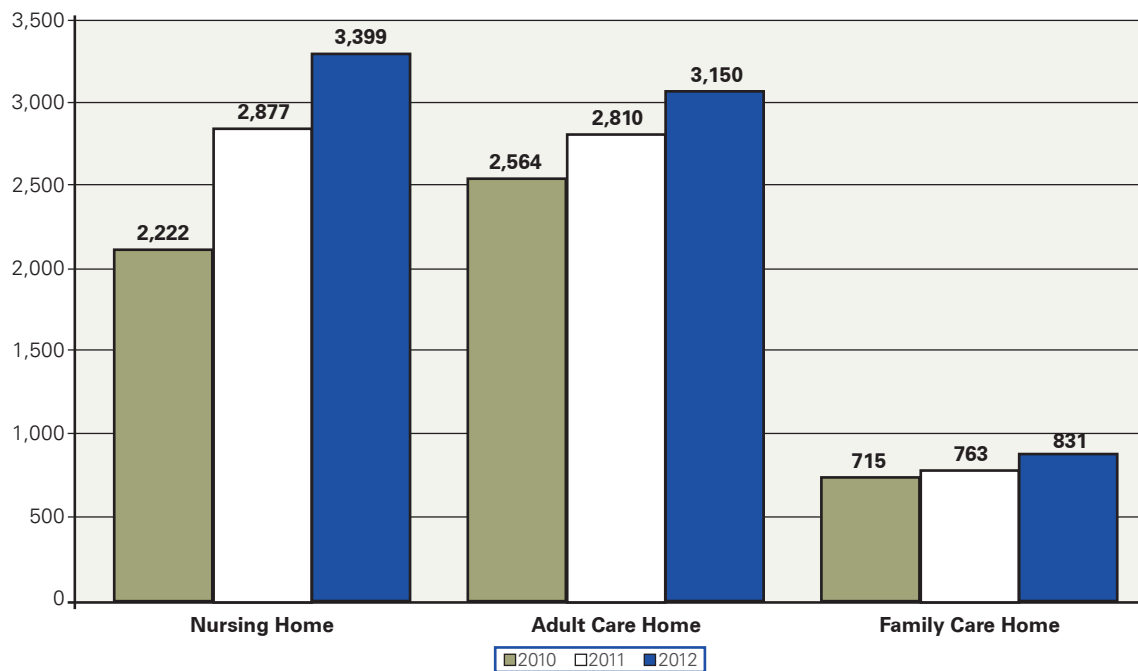
- Ombudsman Program
- Elder Abuse Awareness Prevention
- Aging Sensitivity Training.

Data available through the Ombudsman Program Documentation and Information system shows that **197 of the educational presentations conducted for facility staff, community groups and community advisory committee members** through the Long Term Care Ombudsman Program focused on topics related to **Elder Abuse Prevention and**

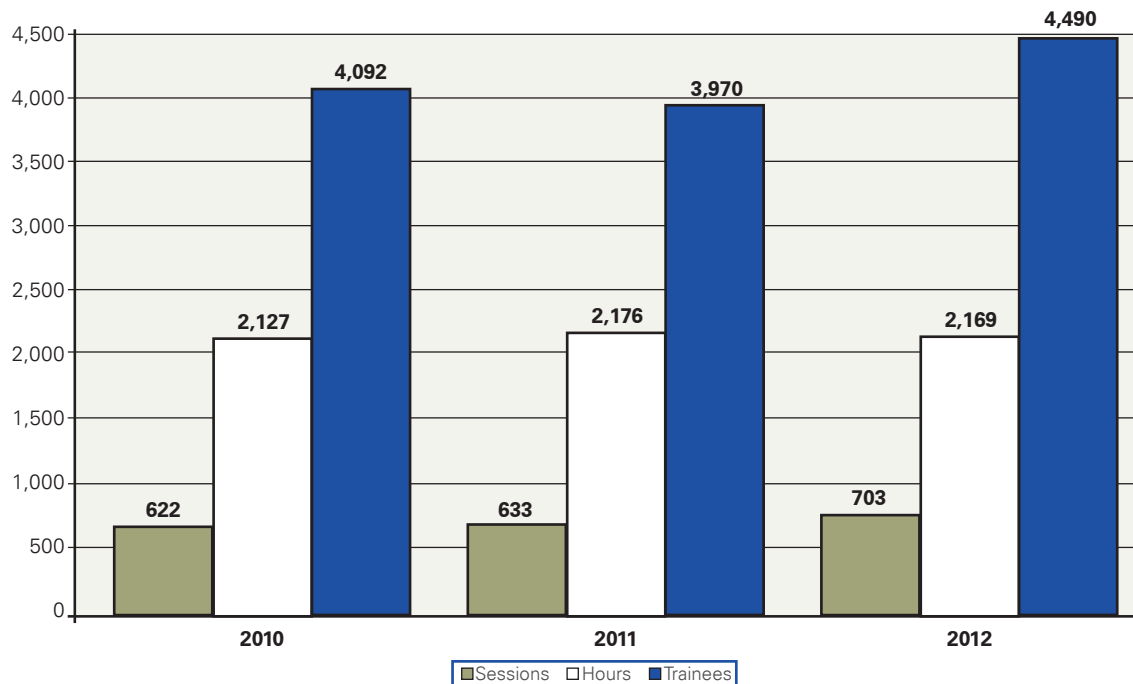
Awareness. A total of **7,648 attendees** participated in various Elder Abuse Prevention and Awareness educational sessions.

During 2012, Long Term Care Ombudsmen and community advisory committee volunteers made **7,380 resident visits in adult care homes, family care homes and nursing homes.**

Resident Visits Made in Adult Care Homes and Nursing Homes



Training for Ombudsmen and Volunteers



The LTC Ombudsman Program provided **703 sessions and 2,169 hours of training for 4,490** community advisory committee members and new regional long term care ombudsmen during 2012.

The three most frequent topics of training included:

- CAC Volunteer Program Development
- Residents' Rights
- Culture Change in Long Term Care.

Ombudsman Advocates for Quality of Life

The Regional Long-Term Care Ombudsman received a telephone call from Mr. S, a resident at a local nursing home. He was upset because he had recently been told by the facility staff that he could no longer leave the facility without having someone with him. Mr. S explained he had used a power wheelchair for over 20 years and was very familiar with navigating sidewalks and crosswalks. He said that he enjoyed being able to go to a shopping center up the street from the nursing home to get a cup of coffee or a sandwich. With Mr. S's permission, the Ombudsman met with the facility staff to discuss why this change had been made. The facility staff stated that they had received calls from community members concerned about Mr. S being away from the facility and were concerned about their own liability if he had an accident while he was out. The Ombudsman reminded the facility staff that Mr. S had the right to leave the facility and was able to take responsibility for his own actions once he signed out of the facility. The facility staff agreed to allow Mr. S to leave the facility on his own.

Courtesy of Piedmont Triad Regional LTC Ombudsman Program

Ombudsman Advocates for Residents' Rights

The Regional Long-Term Care Ombudsman was contacted by a concerned family member of a resident, Ms. B, who has dementia and was living at a local Adult Care Home. She was concerned because one day while visiting, she found a 30-day discharge notice for non-payment in Ms. B's room. The amount due to the facility was well over \$7,000. The family member, who was also the Power of Attorney, gave the Ombudsman permission to help in any way possible. The Long Term Care Ombudsman visited the resident at the facility and met with the staff to discuss the discharge notice. The Ombudsman educated the staff on the discharge procedures that includes notifying the responsible party for a resident who is not able to make her own decisions. The Ombudsman also worked with the staff and the social worker at the local Department of Social Services to find out where the lapse in payment occurred. By bringing together the family member of Ms. B, the staff of the facility, and the staff of the local Department of Social Services, it was discovered that the lack of payment was an error. The discharge notice was withdrawn and Ms. B was able to remain a resident at the Adult Care Home!

Courtesy of Piedmont Triad Regional LTC Ombudsman Program

North Carolina Long Term Care Facilities 2012

Nursing Homes

Number of Licensed Facilities	Number of Licensed Beds
445	49,857

Adult Care Homes

Number of Licensed Facilities	Number of Licensed Beds
1,255	40,578

2012 Complaint Management Summary

A primary responsibility of the North Carolina Long Term Care Ombudsman Program is to receive, investigate and attempt to resolve grievances being experienced by long term care residents using informal grievance resolution techniques, mediation and advocacy skills. A broader responsibility enfolded in the Program's complaint management work is the protection of long term care residents' rights, health, safety, welfare, quality of care and quality of life.

As certified representatives of the Office of the State Long Term Care Ombudsman, Regional Long Term Care Ombudsmen are mandated to provide timely access to advocacy services for both nursing home and adult care home residents. Long Term Care Ombudsman Program policy requires a personal visit with the resident within four days of receiving complaints filed by or on behalf of a resident.

Residents' Rights violations are the primary focus for complaints investigated by the Long Term Care Ombudsman Program. Consumers alleging violations of federal or state regulations are

referred to other agencies such as the Division of Health Service Regulation for investigation. Likewise, Program representatives are not authorized to investigate complaints about resident abuse, neglect or exploitation occurring in long term care facilities. However, regional ombudsmen do provide residents and their families with information and assistance to ensure allegations of abuse or neglect are reported to a local county department of social services, adult protective services unit or law enforcement if warranted.

The Older Americans Act mandates that every State Long Term Care Ombudsman Program maintain a confidential data collection system which provides documentation of the required Ombudsman Program activities including complaint management information. Program data from this system is submitted annually to the Administration on Aging. After analysis and verification, each state's data are published on the Administration on Aging's web site: www.aoa.gov.

The following Ombudsman Program trends provide a brief snapshot of the work accomplished by North Carolina during 2012:

- 1,768 individual complaint cases were closed that included 3,381 complaints.

■ 2,037 nursing home complaints and 1,344 adult care home complaints were responded to by representatives of the N.C. Long Term Care Ombudsman Program. Complaint disposition was:

- 2,316 complaints (69%) were resolved or partially resolved as a result of interventions by regional ombudsmen.
- 521 complaints (15%) required no further action to be taken by a regional ombudsman.
- 159 complaints (5%) were withdrawn by the resident or complainant prior to completion of an investigation.
- 66 complaints (2%) could not be resolved to the satisfaction of the resident or complainant. This included 2 complaints that could not be addressed under current regulations or would require legislative action to amend current laws.
- 319 complaints (9%) were referred to other agencies and either a final disposition was not obtained or the agency did not substantiate the complaint.

There was a 6% increase in total complaints received during 2012. Current trends noted as a result of analyzing the complaint data are:

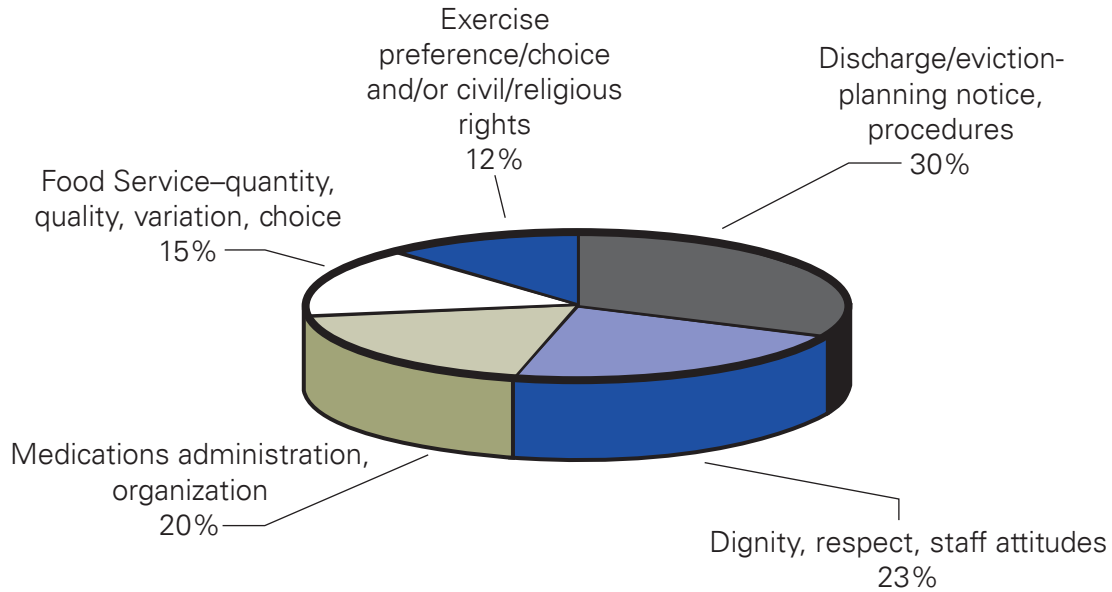
- There was a 10% increase in nursing home complaints and 14% increase in adult care home complaints within the Residents' Rights Category
- There was a 15% increase in complaints (474) handled related to inappropriate facility discharge procedures including improper notices of discharge, failures in planning a safe discharge to another location or not following other procedures required by federal or state law.
- The percentage of complaints in the Resident Care category (764) remained about the same as in 2011.
- Under the Quality of Life category, there was a 7% increase in complaints (647) compared to last year's data for the same category (605).
- The charts on page 27 indicate a 20% increase in adult care home complaints about physical and verbal abuse of residents. Nursing home complaints about abuse or neglect decreased slightly.

Long Term Care Ombudsman
Program data indicates that regional ombudsmen have continued to initiate contact with the resident (96%) ninety-six percent of the time within the required four-day time period during 2012. The Program's ability to maintain such a high percentage is commendable given the simultaneous challenges managed by Regional Ombudsmen. Some of these challenges include their mandates to provide ongoing community advisory committee training and support, conduct community education events including Elder Abuse Prevention training, assist long term care providers with technical support and training, and respond timely to requests for assistance from families and the public related to a myriad of long term care questions, problems and concerns.

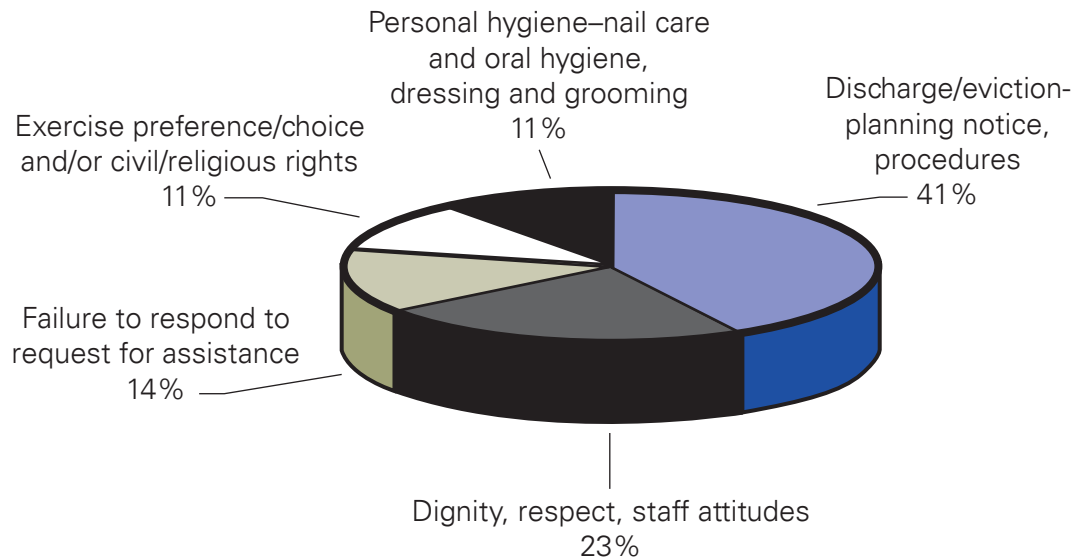
Complaint: A concern brought to, or initiated by, the ombudsman for investigation and action by or on behalf of one or more residents of a long term care facility relating to health, safety, welfare or rights of a resident.

Total FFY 2012 Complaints	1,901	1,286
Ombudsman Complaint Categories	Nursing Home Total Percent	Adult Care Home Total Percent
Resident Rights: The right to a dignified existence, self-determination, communication and access to persons inside or outside of the long term care facility.	909 (45%)	639 (47%)
Resident Care: Necessary care and services to maintain the highest practicable physical, mental and psychosocial well-being according to comprehensive assessments and plans of care.	541 (26%)	223 (17%)
Quality of Life: A facility must care for those who live there in a manner and an environment that promotes maintenance and enhancement of each person's quality of life.	338 (17%)	309 (23%)
Administration: A facility must be administered to enable it to use its resources and staff effectively and efficiently to attain or maintain the highest practicable physical, mental and psychosocial well-being of each person who lives in the facility.	141 (7%)	82 (6%)
Not Against Facility: Complaints are against certification/licensing agency, State Medicaid, abuse by family or guardian, family conflict, Medicare, Mental Health, APS, Social Security, VA.	108 (5%)	91 (7%)

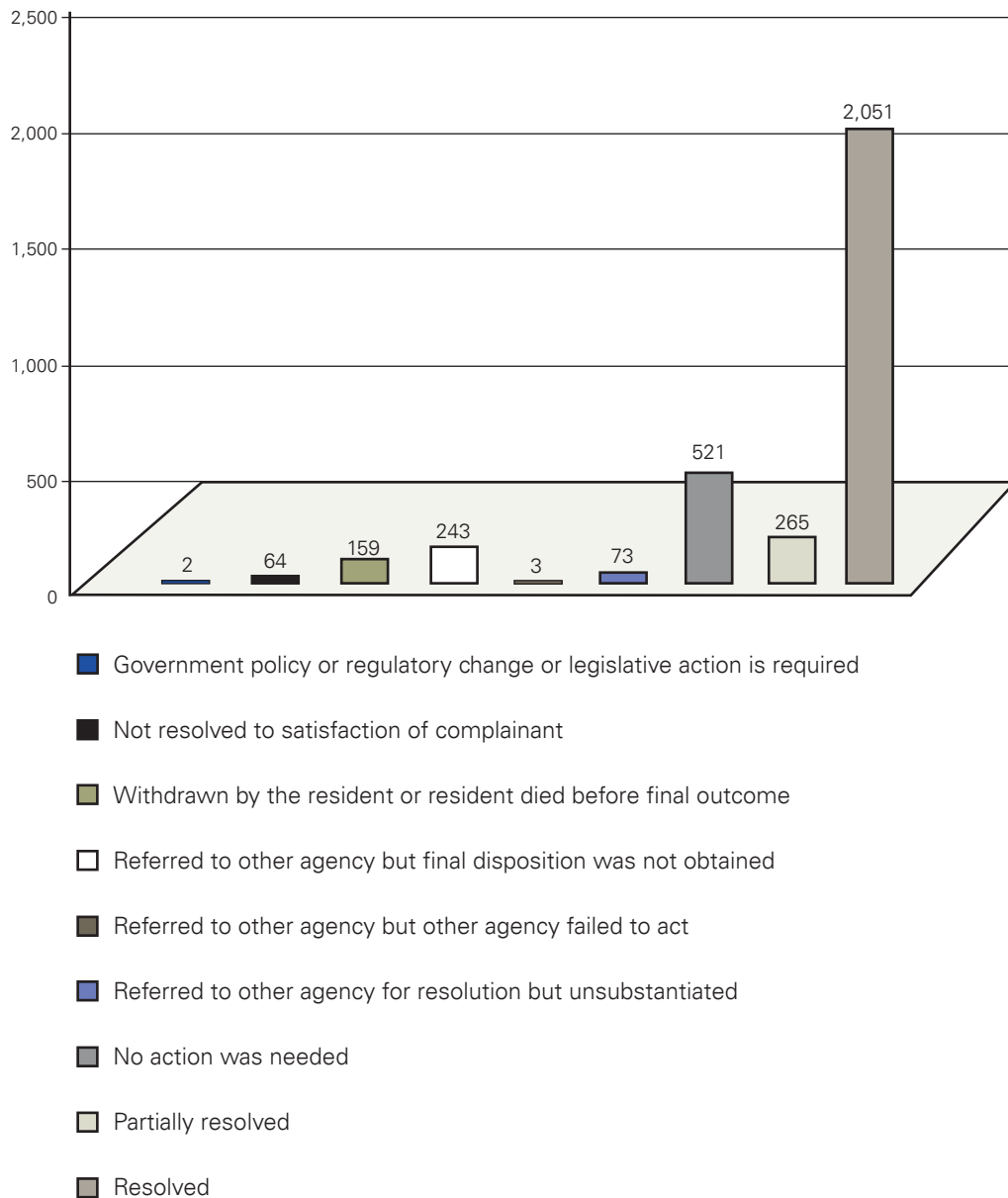
Top Five Adult Care Home Complaints FFY 2012



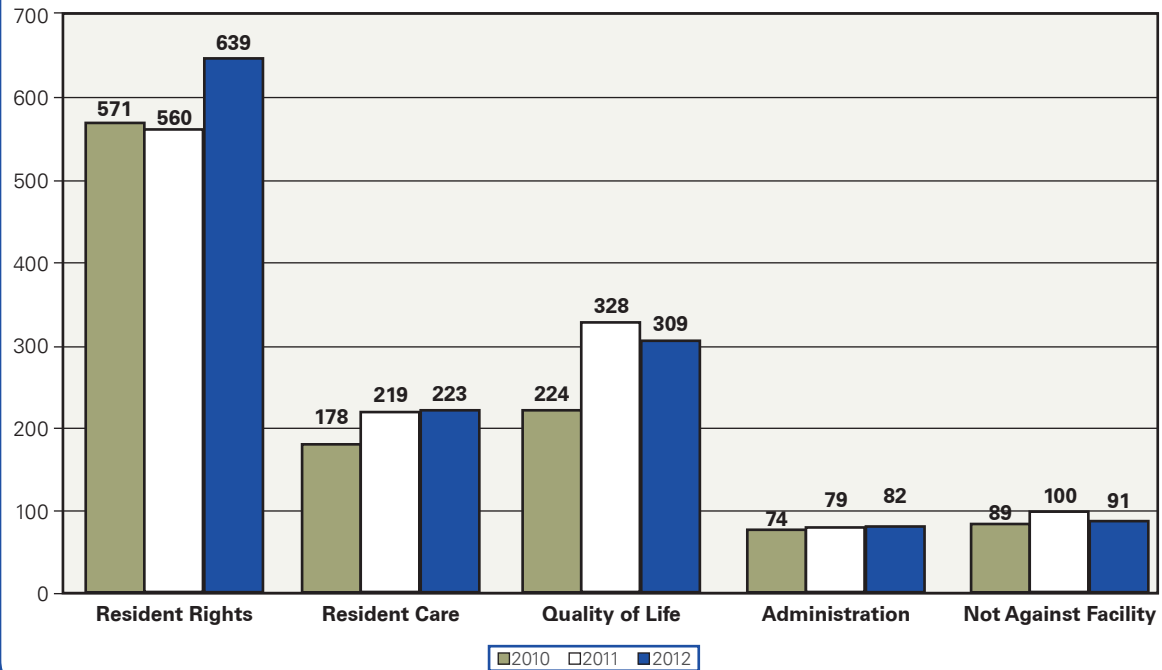
Top Five Nursing Home Complaints FFY 2012



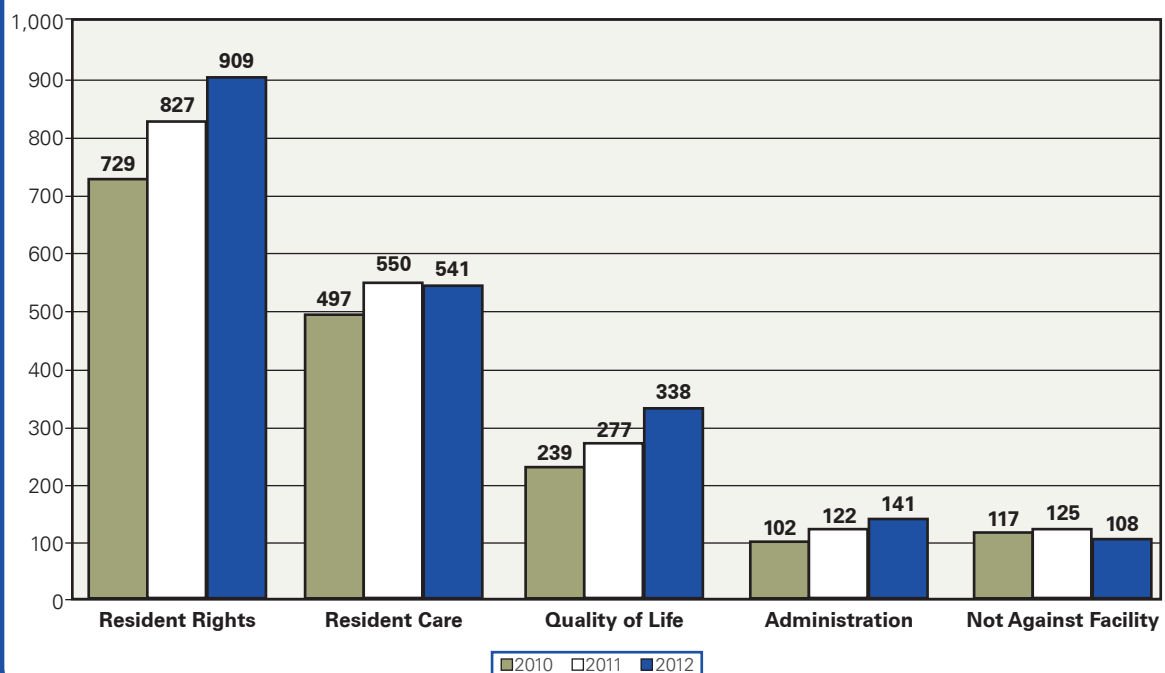
Disposition of Complaints FFY 2012



Three Year Comparison of Adult Care Home Complaints FFY 2010 - FFY 2012



Three Year Comparison of Nursing Home Complaints FFY 2010 - FFY 2012



No Excuse for Elder Abuse 2012

The next generation of advocates!





As my 87-year-old mother's only family advocate, I felt helpless when I disagreed with her physician's recommendation for her long-term placement. My mother is immobile and had been living in an assisted living, but had recently required more care due to a series of severe urinary tract infections. My concern was getting my mother well before assessing her. However, the assisted living physician had assessed her for dementia during one of her most severe infections and completed an FL-2 recommending a "secured unit." My attempts to discuss my concerns with the facility staff or the physician were not productive. I came away feeling that I had no choice but to follow the doctor's orders. However, I did not think this was in the best interest of my mother's health or well-being.

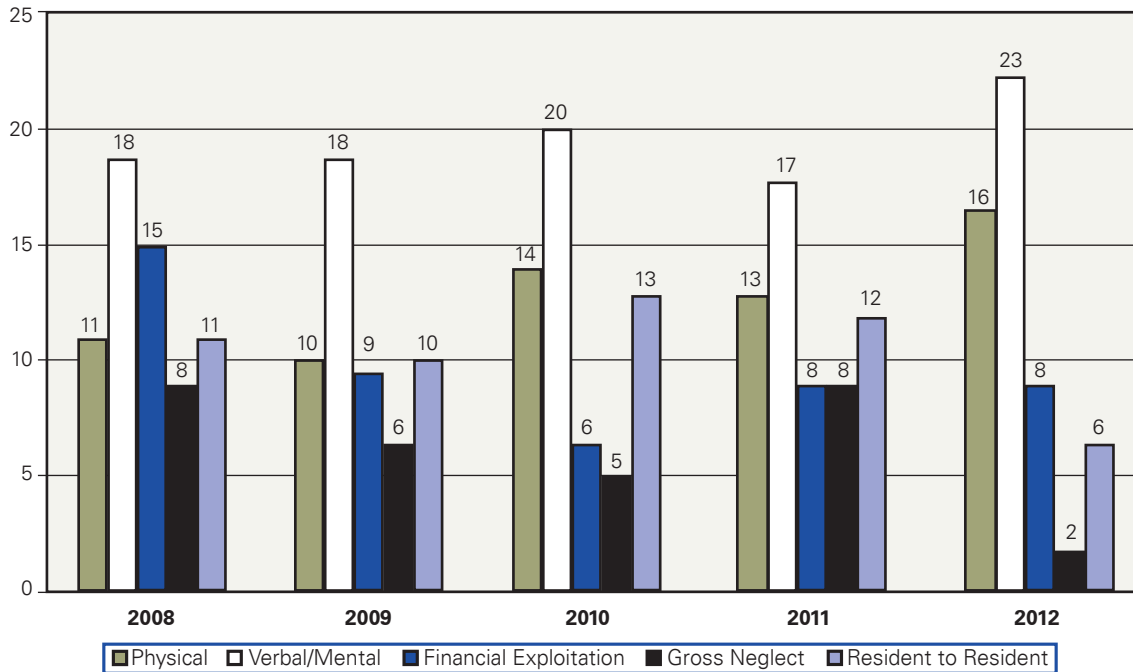
The situation was frustrating and stressful until I reached out to my Regional Ombudsman. She guided me and helped me to understand state regulations and my mother's rights. She also joined me at the care plan conference about this issue. The Regional Ombudsman asked questions that I had forgotten to ask and reminded me of topics we had discussed prior to the meeting. She remained professional and supportive, but let me lead the conversation.

The care conference led to the creation of a new FL-2 recommending assisted living, which would give my mother time to recover from her most recent infection. She is scheduled to see an urologist soon and then we can have a valid assessment for dementia.

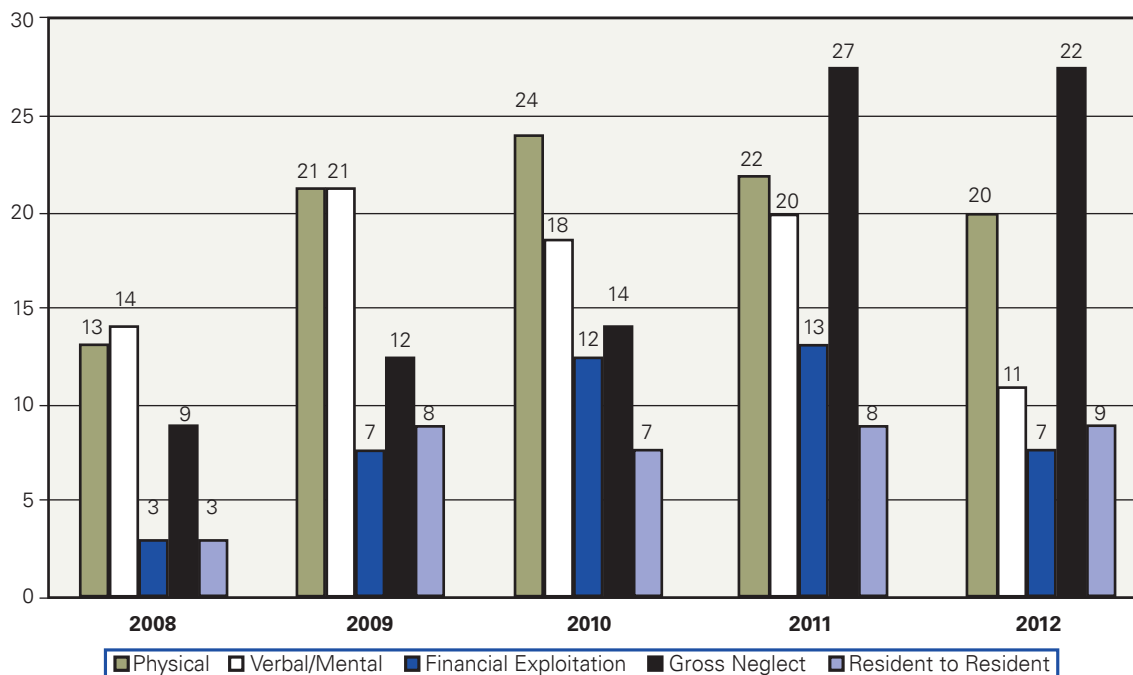
I am very thankful for the advocacy that the Regional Ombudsman Program has provided to my mother and me. The elderly are one of the most vulnerable and most valuable segments of our population. I cannot imagine how many of them are unrepresented or underrepresented. This is an important program!

Submitted by a Long Term Care Resident's Family Member

Five Year Comparison of Abuse Complaints in Adult Care Homes FFY 2008-2012



Five Year Comparison of Abuse Complaints in Nursing Homes FFY 2008-2012





Appendices





Appendix A

North Carolina Adult Care Home Bill of Rights (Condensed Version)

Every resident shall have the following rights:

1. To be treated with respect, consideration, dignity and full recognition of his or her individuality and right to privacy.
2. To receive care and services which are adequate, appropriate and in compliance with relevant federal and state laws and rules and regulations.
3. To receive upon admission and during his or her stay a written statement of the services provided by the facility and the charges for these services.
4. To be free of mental and physical abuse, neglect and exploitation.
5. Except in emergencies, to be free from chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical need.
6. To have his or her personal and medical record kept confidential and not disclosed without the written consent of the individual or guardian, which consent shall specify to whom disclosure may be made except as required by applicable state or federal statute or regulation or by third party contract.
7. To receive a reasonable response to his or her requests from the facility administrator and staff.
8. To associate and communicate privately and without restriction with people and groups of his or her own choice on his or her own initiative at any reasonable hour.
9. To have access at any reasonable hour to a telephone where he or she may speak privately.
10. To send and receive mail promptly and unopened, unless the resident requests that someone open and read mail, and to have access at his or her expense to writing instruments, stationery and postage.
11. To be encouraged to exercise his or her rights as a resident and citizen, and to be permitted to make complaints and suggestions without fear of coercion or retaliation.
12. To have and use his or her own possessions where reasonable and have an accessible lockable space provided for security of personal valuables. This space shall be accessible only to the residents and the administrator or supervisor in charge.
13. To manage his or her personal needs funds unless such authority has been delegated to another. If authority to manage personal needs funds has been delegated to the facility, the resident has the right to examine the account at any time.
14. To be notified when the facility is issued a provisional license by the North Carolina Department of Health and Human Services and the basis on which the provisional license was issued. The resident's responsible family member or guardian shall also be notified.
15. To have freedom to participate by choice in accessible community activities and in social, political, medical and religious resources and to have freedom to refuse such participation.
16. To receive upon admission to the facility a copy of this section.
17. To not be transferred or discharged from a facility except for medical reasons, their own or other residents' welfare, or nonpayment. Except in cases of immediate jeopardy to health or safety, residents shall be given at least 30 days advance notice of the transfer or discharge and their right to appeal.

The Ombudsman is an advocate for those who live in long term care facilities. For more information on resident rights, call the Regional Long Term Care Ombudsman.

Your Regional Ombudsman is: _____ Telephone: _____

North Carolina Bill of Rights for Nursing Home Residents (Condensed Version)

Every resident shall have the following rights:

1. To be treated with consideration, respect and full recognition of personal dignity and individuality.
2. To receive care, treatment, and services that are adequate and appropriate, and in compliance with relevant federal and State rules.
3. To receive at the time of admission and during stay, a written statement of services provided by the facility and of related charges. Charges for services not covered under Medicare and Medicaid shall be specified.
4. To have on file physician's orders with proposed schedule of medical treatment. Written, signed evidence of prior informed consent to participation in experimental research shall be in patient's file.
5. To receive respect and privacy in his medical care program. All personal and medical records are confidential.
6. To be free of mental and physical abuse. To be free of chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical records.
7. To receive from the administrator or staff of the facility a reasonable response to all requests.
8. To receive visitors or have access to privacy in phone use at any reasonable hour. To send and receive mail promptly and unopened, with access to writing materials.
9. To manage his/her own financial affairs unless other legal arrangements have been so ordered.
10. To have privacy in visits by the patient's spouse.
11. To enjoy privacy in his/her own room.
12. To present grievances and recommend changes in policies and services without fear of reprisal, restraint, interference, coercion or discrimination.
13. To not be required to perform services for the facility without resident's consent and written approval of the attending physician.
14. To retain, to secure storage for, and to use his personal clothing and possessions, where reasonable.
15. To not be transferred or discharged from a facility except for medical, financial, or their own or other patient's welfare. Any such transfer shall require at least five days' notice, unless the attending physician orders immediate transfer, which shall be documented in the patient's medical record.
16. To be notified when the facility's license is revoked or made provisional. The responsible party or guardian must be notified, also.

The Ombudsman is an advocate for those who live in long term care facilities. For more information on resident rights, call the Regional Long Term Care Ombudsman.

Your Regional Ombudsman is: _____ Telephone: _____

Appendix B

Data Tables from N.C. Ombudsman Reporting Tool FFY 2012

***Review: http://www.aoa.gov/AoARoot/AoA_Programs/Elder_Rights/Ombudsman/docs/Complaint_Code2015.pdf for additional clarification and definitions of types of facilities and complaint categories.*

Part I - Cases, Complainants and Complaints

D. Types of Complaints, by Type of Facility

Below and on the following pages provide the total number of complaints for each specific complaint category, for nursing facilities and board and care or similar type of adult care facility. The first four major headings are for complaints involving action or inaction by staff or management of the facility. The last major heading is for complaints against others outside the facility. See Instructions for additional clarification and definitions of types of facilities and selected complaint categories.

Residents' Rights

A. Abuse, Gross Neglect, Exploitation

1. Abuse, physical (including corporal punishment)
2. Abuse, sexual
3. Abuse, verbal/psychological (including punishment, seclusion)
4. Financial exploitation (use categories in section E for less severe financial complaints)
5. Gross neglect (use categories under Care, Sections F & G for non-willful forms of neglect)
6. Resident-to-resident physical or sexual abuse
7. Not Used

Nursing Facility **B&C, ALF, RCF, etc.**

17	13
3	3
11	23
7	8
22	2
9	6

B. Access to Information by Resident or Resident's Representative

8. Access to own records
9. Access by or to ombudsman/visitors
10. Access to facility survey/staffing reports/license
11. Information regarding advance directive
12. Information regarding medical condition, treatment and any changes
13. Information regarding rights, benefits, services, the resident's right to complain
14. Information communicated in understandable language
15. Not Used

9	2
8	8
2	1
1	0
29	13
17	27
1	2

C. Admission, Transfer, Discharge, Eviction

16. Admission contract and/or procedure
17. Appeal process - absent, not followed
18. Bed hold - written notice, refusal to readmit
19. Discharge/eviction - planning, notice, procedure, implementation, inc. abandonment
20. Discrimination in admission due to condition, disability
21. Discrimination in admission due to Medicaid status
22. Room assignment/room change/intrafacility transfer
23. Not Used

7	5
3	0
8	2
264	125
2	3
6	1
30	18

D. Autonomy, Choice, Preference, Exercise of Rights, Privacy

24. Choose personal physician, pharmacy/hospice/other health care provider
25. Confinement in facility against will (illegally)
26. Dignity, respect - staff attitudes
27. Exercise preference/choice and/or civil/religious rights, individual's right to smoke
28. Exercise right to refuse care/treatment
29. Language barrier in daily routine
30. Participate in care planning by resident and/or designated surrogate

5	8
13	8
145	90
68	48
10	9
0	0
8	4

- 31. Privacy - telephone, visitors, couples, mail
- 32. Privacy in treatment, confidentiality
- 33. Response to complaints
- 34. Reprisal, retaliation
- 35. Not Used

25	34
7	10
40	26
18	14

E. Financial, Property (Except for Financial Exploitation)

- 36. Billing/charges - notice, approval, questionable, accounting wrong or denied (includes overcharge of private pay residents)
- 37. Personal funds - mismanaged, access/information denied, deposits and other money not returned (report criminal-level misuse of personal funds under A.4)
- 38. Personal property lost, stolen, used by others, destroyed, withheld from resident
- 39. Not Used

51	38
12	45
51	43

Resident Care

F. Care

- 40. Accidental or injury of unknown origin, falls, improper handling
- 41. Failure to respond to requests for assistance
- 42. Care plan/resident assessment - inadequate, failure to follow plan or physician orders (put lack of resident/surrogate involvement under D.30)
- 43. Contracture
- 44. Medications - administration, organization
- 45. Personal hygiene (includes nail care & oral hygiene) and adequacy of dressing & grooming
- 46. Physician services, including podiatrist
- 47. Pressure sores, not turned
- 48. Symptoms unattended, including pain, pain not managed, no notice to others of changes in condition
- 49. Toileting, incontinent care
- 50. Tubes - neglect of catheter, gastric, NG tube (use D.28 for inappropriate/forced use)
- 51. Wandering, failure to accommodate/monitor exit seeking behavior
- 52. Not Used

31	11
86	9
64	23
2	0
56	78
67	33
30	18
29	1
36	13
40	2
10	2
7	1

G. Rehabilitation or Maintenance of Function

- 53. Assistive devices or equipment
- 54. Bowel and bladder training
- 55. Dental services
- 56. Mental health, psychosocial services
- 57. Range of motion/ambulation
- 58. Therapies - physical, occupational, speech
- 59. Vision and hearing
- 60. Not Used

26	10
6	0
4	2
7	12
18	1
12	3
1	0

H. Restraints - Chemical and Physical

- 61. Physical restraint - assessment, use, monitoring
- 62. Psychoactive drugs - assessment, use, evaluation
- 63. Not Used

4	1
5	3

Quality of Life**I. Activities and Social Services**

64. Activities - choice and appropriateness	12	31
65. Community interaction, transportation	13	16
66. Resident conflict, including roommates	24	28
67. Social services - availability/appropriateness/ (use G.56 for mental health, psychosocial counseling/service)	6	0
68. Not Used		

J. Dietary

69. Assistance in eating or assistive devices	19	7
70. Fluid availability/hydration	23	3
71. Food service - quantity, quality, variation, choice, condiments, utensils, menu	54	59
72. Snacks, time span between meals, late/missed meals	12	12
73. Temperature	18	8
74. Therapeutic diet	22	6
75. Weight loss due to inadequate nutrition	5	5
76. Not Used		

K. Environment

77. Air/environment: temperature and quality (heating, cooling, ventilation, water, noise)	10	8
78. Cleanliness, pests, general housekeeping	30	30
79. Equipment/building - disrepair, hazard, poor lighting, fire safety, not secure	28	35
80. Furnishings, storage for residents	6	10
81. Infection control	11	8
82. Laundry - lost, condition	13	16
83. Odors	14	15
84. Space for activities, dining	0	1
85. Supplies and linens	17	9
86. Americans with Disabilities Act (ADA) accessibility	1	2

Administration**L. Policies, Procedures, Attitudes, Resources (See other complaint headings, of above, for policies on advance directives, due process, billing, management residents' funds)**

87. Abuse investigation/reporting, including failure to report	2	1
88. Administrator(s) unresponsive, unavailable	17	3
89. Grievance procedure (use C for transfer, discharge appeals)	3	2
90. Inappropriate or illegal policies, practices, record-keeping	2	0
91. Insufficient funds to operate	0	2
92. Operator inadequately trained	2	0
93. Offering inappropriate level of care (for B&C/similar)	2	6
94. Resident or family council/committee interfered with, not supported	1	0
95. Not Used		

M. Staffing

96. Communication, language barrier (use D.29 if problem involves resident inability to communicate)	2	4
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97. Shortage of staff	44	11
98. Staff training	14	7
99. Staff turn-over, over-use of nursing pools	4	2
100. Staff unresponsive, unavailable	40	29
101. Supervision	7	13
102. Eating Assistants	1	2

Not Against Facility**N. Certification/Licensing Agency**

103. Access to information (including survey)	1	1
104. Complaint, response to	3	1
105. Decertification/closure	0	0
106. Sanction, including Intermediate	0	0
107. Survey process	0	0
108. Survey process - Ombudsman participation	0	0
109. Transfer or eviction hearing	7	4
110. Not Used		

O. State Medicaid Agency

111. Access to information, application	2	2
112. Denial of eligibility	1	1
113. Non-covered services	5	1
114. Personal Needs Allowance	0	6
115. Services	6	5
116. Not Used		

P. System/Others

117. Abuse/neglect/abandonment by family member/friend/guardian or, while on visit out of facility, any other person	6	2
118. Bed shortage - placement	0	0
119. Facilities operating without a license	0	3
120. Family conflict; interference	24	12
121. Financial exploitation or neglect by family or other not affiliated with facility	2	2
122. Legal - guardianship, conservatorship, power of attorney, wills	18	18
123. Medicare	4	1
124. Mental health, developmental disabilities, including PASRR	2	0
125. Problems with resident's physician/assistant	5	1
126. Protective Service Agency	1	0
127. SSA, SSI, VA, Other Benefits/Agencies	5	12
128. Request for less restrictive placement	16	19
Total, categories A through P	2,037	1,344

Q. Complaints About Services in Settings Other Than Long-Term Care Facilities or By Outside Provider in Long-Term Care Facilities (see instructions)

129. Home care	0
130. Hospital or hospice	0
131. Public or other congregate housing not providing personal care	0
132. Services from outside provider (see instructions)	0
133. Not Used	
Total, Heading Q.	0

Total Complaints*

3,381

Appendix C

Title VII, Chapter 2, Section 712 2000 Amendments to the Older Americans Act

SEC 712 (42 U.S.C. 3058g) STATE LONG TERM CARE OMBUDSMAN PROGRAM.

(a) Establishment.—

(1) In general. In order to be eligible to receive an allotment under section 703 from funds appropriated under section *702 and made available to carry out this chapter*, a State agency shall, in accordance with this section

(A) establish and operate an Office of the State Long Term Care Ombudsman; and

(B) carry out through the Office a State Long Term Care Ombudsman program.

(2) Ombudsman. The Office shall be headed by an individual, to be known as the State Long Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long term care and advocacy.

(3) Functions. The Ombudsman shall serve on a full time basis, and shall, personally or through representatives of the Office—

(A) identify, investigate, and resolve complaints that-

(i) are made by, or on behalf of, residents and

(ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of

(I) providers, or representatives of providers, of long-term care services;

(II) public agencies; or

(III) health and social service agencies;

(B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

(C) inform the residents about means of obtaining services provided by providers or agencies described in subparagraph (A)(ii) or services described in subparagraph (B);

(D) ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;

(E) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;

(G) (i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long term care facilities and services in the State;

(ii) recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and

(iii) facilitate public comment on the laws, regulations, policies, and actions;

(H) (i) provide for training representatives of the Office;

(ii) promote the development of citizen organizations, to participate in the program; and

(iii) provide technical support for the development of resident and family councils to protect the well being and rights of residents; and

(I) carry out such other activities as the Assistant Secretary determines to be appropriate

(4) Contracts and arrangements.--

(A) In general. Except as provided in subparagraph (B), the State agency may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(B) Licensing and certification organizations; associations. The State agency may not enter into the contract or other arrangement described in subparagraph (A) with

(i) an agency or organization that is responsible for licensing or certifying long term care services in the State; or

- (ii) an association (or an affiliate of such an association) of long term care facilities, or of any other residential facilities for older individuals.
- (5) Designation of local ombudsman entities and representatives.--
- (A) Designation.--In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee or volunteer to represent the entity.
 - (B) Duties.--An individual so designated shall, in accordance with the policies and procedures established by the Office and the State agency
 - (i) provide services to protect the health, safety, welfare and rights of residents;
 - (ii) ensure that residents in the service area of the entity have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance;
 - (iii) identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents;
 - (iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;
 - (v)
 - (I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and
 - (II) facilitate the ability of the public to comment on the laws, regulation, policies, and actions;
 - (vi) support the development of resident and family councils; and
 - (vii) carry out other activities that the Ombudsman determines to be appropriate.
 - (C) Eligibility for designation.--Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall

- (i) have demonstrated capability to carry out the responsibilities of the Office;
- (ii) be free of conflicts of interest and *not stand to gain financially through an action or potential action brought on behalf of individuals the Ombudsman serves*;
- (iii) in the case of the entities, be public or nonprofit private entities; and
- (iv) meet such additional requirements as the Ombudsman may specify.

(D) Policies and procedures.--

- (i) In general. The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties of the Office.
- (ii) Policies. In a case in which the entities are grantees, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies in consultation with the area agencies on aging. The policies shall provide for participation and comment by the agencies and for resolution of concerns with respect to case activity.
- (iii) Confidentiality and disclosure. The State agency shall develop the policies and procedures in accordance with all provisions of this subtitle regarding confidentiality and conflict of interest.

(b) Procedures for Access.--

- (1) In General. The State shall ensure that representatives of the Office shall have--

- (A) access to long term care facilities and residents;
- (B) (i) appropriate access to review the medical and social records of a resident, if
 - (I) the representative has the permission of the resident, or the legal representative of the resident; or
 - (II) the resident is unable to consent to the review and has no legal representative; or
- (ii) access to the records as is necessary to investigate a complaint if
 - (I) a legal guardian of the resident refuses to give the permission;

- (II) a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and
 - (III) the representative obtains the approval of the Ombudsman;
 - (C) access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long term care facilities; and
 - (D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long term care facilities.
- (2) Procedures.--The State agency shall establish procedures to ensure the access described in paragraph (1).
- (c) Reporting System.--The State agency shall establish a statewide uniform reporting system to
- (1) collect and analyze data relating to complaints and conditions in long term care facilities and to residents for the purpose of identifying and resolving significant problems; and
 - (2) submit the data, on a regular basis, to
 - (A) the agency of the State responsible for licensing or certifying long term care facilities in the State;
 - (B) other State and Federal entities that the Ombudsman determines to be appropriate;
 - (C) the Assistant Secretary; and
 - (D) the National Ombudsman Resource Center established in section 202(a)(21).
- (d) Disclosure.--
- (1) In general.--The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the program, including records described in subsection (b)(1) or (c).
 - (2) Identity of complainant or resident.--The procedures described in paragraph (1) shall
 - (A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and

- (B) prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless
 - (i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;
 - (ii) (I) the complainant or resident gives consent orally; and
(II) the consent is documented contemporaneously in a writing made by a representative of the Office in accordance with such requirements as the State agency shall establish; or
 - (iii) the disclosure is required by court order.
- (e) Consultation.—In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long term care.

(f) Conflict of Interest.—The State agency shall—

- (1) Ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5), is subject to a conflict of interest;**
- (2) ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest;
- (3) ensure that the Ombudsman—
 - (A) does not have a direct involvement in the licensing or certification of a long term care facility or of a provider of a long term care service;
 - (B) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long term care facility or a long term care service;
 - (C) is not employed by, or participating in the management of, a long term care facility; and
 - (D) does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long term care facility; and

- (4) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), and to identify and eliminate the relationships described in subparagraphs (A) through (D) of paragraph (3), including such mechanisms as--
 - (A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and
 - (B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.
- (g) Legal Counsel.--The State agency shall ensure that--
 - (1) (A) adequate legal counsel is available, and is able, without conflict of interest, to
 - (i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents; and
 - (ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and
 - (B) legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the Ombudsman or such a representative; and
 - (2) the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.
- (h) Administration.--The State agency shall require the Office to--
 - (1) prepare an annual report--
 - (A) describing the activities carried out by the Office in the year for which the report is prepared;
 - (B) containing and analyzing the data collected under subsection (c);
 - (C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents;
 - (D) containing recommendations for
 - (i) improving quality of the care and life of the residents; and
 - (ii) protecting the health, safety, welfare, and rights of the residents;

- (E) (i) analyzing the success of the program including success in providing services to residents of board (and care facilities and other similar adult care facilities; and
- (ii) identifying barriers that prevent the optimal operation of the program; and
- (F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove the barriers;

(2) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such laws, regulation, and policies as the Office determines to be appropriate;

- (3) (A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding–
 - (i) the problems and concerns of older individuals residing in long term care facilities; and
 - (ii) recommendations related to the problems and concerns; and
- (B) make available to the public, and submit to the Assistant Secretary, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1);
- (4) *strengthen and update* procedures for the training of the representatives of the Office, including unpaid volunteers, based on model standards established by the Director of the Office of Long-Term Care Ombudsman Programs, in consultation with representatives of citizen groups, long term care providers, and the Office, that–
 - (A) specify a minimum number of hours of initial training;
 - (B) specify the content of the training, including training relating to–
 - (i) Federal, State, and local laws, regulations, and policies, with respect to long term care facilities in the State;

- (ii) investigative techniques; and
 - (iii) such other matters as the State determines to be appropriate; and
 - (C) specify an annual number of hours of in service training for all designated representatives;
 - (5) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) unless the representative--
 - (A) has received the training required under paragraph (4); and
 - (B) has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office;
 - (6) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under--
 - (A) part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.); and
 - (B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);
 - (7) coordinate, to the greatest extent possible, ombudsman services with legal assistance provided under section 306(a)(2)(C), through adoption of memoranda of understanding and other means;
 - (8) *coordinate services with State and local law enforcement agencies and courts of competent jurisdiction; and*
 - (9) permit any local Ombudsman entity to carry out the responsibilities described in paragraph (1), (2), (3), (6), or (7).
- (i) Liability.--The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

(j) Noninterference.--The State shall--

- (1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Assistant Secretary) shall be unlawful;
- (2) prohibit retaliation and reprisals by a long term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and
- (3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.

Appendix D

Long-Term Care Ombudsman Program.

Part 14D. North Carolina State Long-term Care Ombudsman Program

§ 143B-181.15. Long-Term Care Ombudsman Program/Office; policy.

It is the intent of the General Assembly to protect and improve the quality of care and life for residents through the establishment of a program to assist residents and providers in the resolution of complaints or common concerns, to promote community involvement and volunteerism in long-term care facilities, and to educate the public about the long-term care system.

The General Assembly finds that a significant number of older citizens of this State reside in long-term care facilities and are dependent on others to provide their care. It is the further intent of the General Assembly that the Department of Health and Human Services, within available resources and pursuant to its duties under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., ensure that the quality of care and life for these residents is maintained, that necessary reports are made, and that, when necessary, corrective action is taken at the Department level. (1989, c. 403, s. 1; 1995, c. 254, s. 1; 1997-443, s. 11A.118 (a).)

§ 143B-181.16. Long-Term Care Ombudsman Program/Office; definition.

Unless the content clearly requires otherwise, as used in this Article:

- (1) "Long-term care facility" means any skilled nursing facility and intermediate care facility as defined in G.S. 131A-3(4) or any adult care home as defined in G.S. 131D-20(2).
- (2) "Resident" means any person who is receiving treatment or care in any long-term care facility.
- (3) "State Ombudsman" means the State Ombudsman as defined by the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., who carries out the duties and functions established by this Article.
- (4) "Regional Ombudsman" means a person employed by an Area Agency on Aging to carry out the functions of the Regional Ombudsman Office established by this Article. (1989, c. 403, s. 1; 1995, c. 254, s. 2; c. 535, s. 35.)

§ 143B-181.17. Office of State Long-Term Care Ombudsman Program/Office; establishment.

The Secretary of Department of Health and Human Services shall establish and maintain the Office of State Long-Term Ombudsman in the Division of Aging. The Office shall carry out the functions and duties required by the Older Americans Act of 1965, as amended. This Office shall be headed by a State Ombudsman who is a person qualified by training and with experience in geriatrics and long-term care. The Attorney General shall provide legal staff and advice to this Office. (1989, c. 403, s. 1; 1997-443, s. 11A.118 (a).)

§ 143B-181.18. Office of State Long-Term Care Ombudsman Program/State Ombudsman duties.

The State Ombudsman shall:

- (1) Promote community involvement with long-term care providers and residents of long-term care facilities and serve as liaison between residents, residents' families, facility personnel, and facility administration;
- (2) Supervise the Long-Term Care Program pursuant to rules adopted by the Secretary of the Department of Health and Human Services pursuant to G.S. 143B-10;
- (3) Certify regional ombudsmen. Certification requirements shall include an internship, training in the aging process, complaint resolution, long-term care issues, mediation techniques, recruitment and training of volunteers, and relevant federal, State, and local laws, policies, and standards;
- (4) Attempt to resolve complaints made by or on behalf individuals who are residents of long-term care facilities, which complaints relate to administrative action that may adversely affect the health, safety, or welfare of residents;
- (5) Provide training and technical assistance to regional ombudsmen;
- (6) Establish procedures for appropriate access by regional ombudsmen to long-term care facilities and residents' records including procedures to protect the confidentiality of these records and to ensure that the identity of any complainant or resident will not be disclosed except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq.;

- (7) Analyze data relating to complaints and conditions in long-term care facilities to identify significant problems and recommend solutions;
- (8) Prepare an annual report containing data and findings regarding the types of problems experienced and complaints reported by residents as well as recommendations for resolutions of identified long-term care issues;
- (9) Prepare findings regarding public education and community involvement efforts and innovative programs being provided in long-term care facilities; and
- (10) Provide information to public agencies, and through the State Ombudsman, to legislators, and others regarding problems encountered by residents or providers as well as recommendations for resolution. (1989, c. 403, s. 1; 1995, c. 254, s. 3; 1997-443, s. 11A.118(a).)

§ 143B-181.19. Office of Regional Long-Term Care Ombudsman; Regional Ombudsman; duties.

- (a) An Office of Regional Ombudsman Program shall be established in each of the Area Agencies on Aging, and shall be headed by a Regional Ombudsman who shall carry out the functions and duties of the Office. The Area Agency on Aging administration shall provide administrative supervision to each Regional Ombudsman.
- (b) Pursuant to policies and procedures established by the State Office of Long-Term Care Ombudsman, the Regional Ombudsman shall:
 - (1) Promote community involvement with long-term care facilities and residents of long-term care facilities and serve as a liaison between residents, residents' families, facility personnel, and facility administration;
 - (2) Receive and attempt to resolve complaints made by or on behalf of residents in long-term care facilities;
 - (3) Collect data about the number and types of complaints handled;
 - (4) Work with long-term care providers to resolve issues of common concern;
 - (5) Work with long-term care providers to promote increased community involvement;
 - (6) Offer assistance to long-term care providers in staff training regarding residents' rights;

- (7) Report regularly to the office of State Ombudsman about the data collected and about the activities of the Regional Ombudsman;
- (8) Provide training and technical assistance to the community advisory committees; and
- (9) Provide information to the general public on long-term care issues. (1989, c. 403.)

§ 143B-181.20. State/Regional Long-Term Care Ombudsman; authority to enter; cooperation of government agencies; communication with residents.

- (a) The State and Regional Ombudsman may enter any long-term care facility and may have reasonable access to any resident in the reasonable pursuit of his function. The Ombudsman may communicate privately and confidentially with residents of the facility individually or in groups. The Ombudsman shall have access to the patient records as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. §3001 et seq., and under procedures established by the State Ombudsman pursuant to G.S. 143B-181.18(6). Entry shall be conducted in a manner that will not significantly disrupt the provision of nursing or other care to residents and if the long-term care facility requires registration of all visitors entering the facility, then the State or Regional Ombudsman must also register. Any State or Regional Ombudsman who discloses any information obtained from the patient's records except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., is guilty of a Class 1 misdemeanor.
- (b) The State or Regional Ombudsman shall identify himself as such to the resident, and the resident has the right to refuse to communicate with the Ombudsman.
- (c) **The resident has the right to participate in planning any course of action to be taken on his behalf by the State or Regional Ombudsman, and the resident has the right to approve or disapprove any proposed action to be taken on his behalf by the Ombudsman.**
- (d) The State or Regional Ombudsman shall meet with the facility administrator or person in charge before any action is taken to allow the facility the opportunity to respond, provide additional information, or take appropriate action to resolve the concern.

- (e) The State and Regional Ombudsman may obtain from any government agency, and this agency shall provide, that cooperation, assistance, services, data, and access to files and records that will enable the Ombudsman to properly perform his duties and exercise his powers, provided this information is not privileged by law.
- (f) If the subject of the complaint involves suspected abuse, neglect, or exploitation, the State or Regional Ombudsman shall notify the county department of social services' Adult Protection Services section of the county department of social services, pursuant to Article 6 of Chapter 108A of the General Statutes. (1989, c. 403, s. 1; 1993, c. 539, s. 1038; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 254, s. 4.)

§ 143B-181.21. State/Regional Long-Term Care Ombudsman; resolution of complaints.

- (a) Following receipt of a complaint, the State or Regional Ombudsman shall attempt to resolve the complaint using, whenever possible, informal technique of mediation, conciliation, and persuasion.
- (b) Complaints or conditions adversely affecting residents of long-term care facilities that cannot be resolved in the manner described in subsection (a) of this section shall be referred by the State or Regional Ombudsman to the appropriate licensure agency pursuant to G.S. 131E-100 through 110 and G.S.131D-2. (1989, c. 403.)

§ 143B-181.22. State/Regional Long-Term Care Ombudsman; confidentiality.

The identity of any complainant, resident on whose behalf a complaint is made, or any individual providing information on behalf of the resident or complainant relevant to the attempted resolution of the complaint along with the information produced by the process of complaint resolution is confidential and shall be disclosed only as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq. (1989, c. 403, s. 1; 1995, c. 254, s. 5.)

§ 143B-181.23. State/Regional Long-Term Care Ombudsman; prohibition of retaliation.

No person shall discriminate or retaliate in any manner against any resident or relative or guardian of a resident, any employee of a long-term care facility, or any other person because of the making of a complaint or providing of information in good faith to the State Ombudsman or Regional Ombudsman. (1989, c. 403.)

§ 143B-181.24. Office of State/Regional Long-Term Care Ombudsman; immunity from liability.

No representative of the Office shall be liable for good faith performance of official duties. (1989, c. 403.)

§ 143B-181.25. Office of State/Regional Long-Term Care Ombudsman; penalty for willful interference.

Willful or unnecessary obstruction with the State or Regional Long-Term Care Ombudsman in the performance of his official duties is a Class 1 misdemeanor. (1989, c. 403; 1993, c. 539, s. 1039; 1994, Ex. Sess., c. 24, s. 14(c).)



State of North Carolina
Pat McCrory, Governor

Department of Health and Human Services
Aldona Z. Wos, M.D., Secretary

Dennis W. Streets, Director, Division of Aging and Adult Services
Sharon C. Wilder, State Long Term Care Ombudsman

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